

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

SMAIL COMPANY, INC., )  
Plaintiff, )  
vs ) Civil Action No. 23-2056  
LIBERTY MUTUAL AUTO AND HOME )  
SERVICES, LLC, )  
Defendant. )

MEMORANDUM ORDER

On December 1, 2023, Defendant Liberty Mutual Auto and Home Services, LLC removed a civil action brought against it by Plaintiff Smail Company, Inc. in the Court of Common Pleas of Westmoreland County, Pennsylvania, predicated subject matter jurisdiction on diversity of citizenship. Plaintiff is alleged to be a “Pennsylvania corporation” (Notice of Removal ¶ 13) and Defendant is alleged to be Limited Liability Company (“LLC”) that is “incorporated in the State of Massachusetts, and its principal place of business is located at 175 Berkeley Street, Boston, Massachusetts 02116.” (*Id.* ¶ 15.)

However, for citizenship purposes, a corporation is a citizen of both its state of incorporation and the state in which it has its principal place of business. 28 U.S.C. § 1332(c)(1). Neither the Complaint nor the Notice of Removal identifies the Plaintiff’s principal place of business.

In addition, “the citizenship of an LLC is determined by the citizenship of its members.” *Zambelli Fireworks Mfg. Co., Inc. v. Wood*, 592 F.3d 412, 419-20 (3d Cir. 2010). Further, where one of the members of the LLC named in the complaint is also an LLC, the citizenship of that LLC’s members must also be traced to determine the citizenship of the LLC named in the complaint. *Id.* at 420 (citation omitted). The Notice of Removal fails to identify or allege the citizenship of the members of Defendant, an LLC. Therefore, Defendant has failed to establish this Court’s subject

matter jurisdiction over this action.

AND NOW, this 5th day of December, 2023,

IT IS HEREBY ORDERED that Defendant shall file within fourteen (14) days of this Order an amended Notice of Removal that sets forth sufficient factual allegations to establish diversity of citizenship among the parties. Failure to comply with this Order may result in dismissal of the action without further notice.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(A), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of issuance of this Order to file an appeal to the District Judge, which includes the basis for objection to this Order. Any party opposing the appeal shall have fourteen (14) days from the date of service of the notice of appeal to respond thereto. Failure to file a timely notice of appeal may constitute a waiver of any appellate rights.

/s/Patricia L. Dodge  
PATRICIA L. DODGE  
United States Magistrate Judge